

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ameren Transmission Company of Illinois	:	
	:	
Petition for a Certificate of Public Convenience	:	
and Necessity, pursuant to Section 8-406.1 of	:	
the Illinois Public Utilities Act, and an Order	:	
pursuant to Section 8-503 of the Public Utilities	:	No. 12-0598
Act, to Construct, Operate and Maintain a New	:	On Rehearing
High Voltage Electric Service Line and Related	:	
Facilities in the Counties of Adams, Brown, Cass,	:	
Champaign, Christian, Clark, Coles, Edgar,	:	
Fulton, Macon, Montgomery, Morgan, Moultrie,	:	
Pike, Sangamon, Schuyler, Scott, and Shelby,	:	
Illinois.	:	

REPLY BRIEF ON REHEARING
OF MOULTRIE COUNTY PROPERTY OWNERS

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REPLY BRIEF ON REHEARING
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I. INTRODUCTION

The Moultrie County Property Owners (“MCPO”) present this Reply Brief on Rehearing in response to certain issues raised, and arguments made by the Piatt, Douglas, Moultrie County Property Owners and the Channon Trust (“PDM”) in their Initial Brief on Rehearing (“PDM Brief”) in relation to the location of the Mt. Zion substation and the appropriate route for the Mt. Zion to Kansas segment of the Illinois Rivers Project (“IRP”). MCPO also responds to certain positions taken by the Staff of the Illinois Commerce Commission (“Staff”) in the Staff Initial Brief on Rehearing (“Staff Brief”) regarding the location of the Mt. Zion substation. MCPO’s failure to respond to any particular argument of any particular party should not be considered acceptance of, or agreement with, that argument, unless specifically stated otherwise herein. MCPO’s failure to revisit any issue raised in its Initial Brief (“MCPO Brief”) should not be considered as an abandonment of that issue.

Despite PDM’s attempts to confuse the record and its frequent misstatements and mischaracterizations, the evidence continues to show that Route MZK, or Route MZK-1 or Route MZK-2 (the ATXI/MCPO Stipulated Route from (i) the Sulphur Spring Road substation site; (ii) Staff Option #1 substation site; and (iii) the Staff Option #2 substation site; (collectively the “MCPO Route”, “Stipulated Route/Route MZK” or “MZK routes”) represent better routing alternatives than any of PDM’s routes (CFT, CFT-1 and CFT-2) (collectively the “Channon route” or “Channon Hybrid

Route”) from any of the Mt. Zion substation locations identified in this case.¹ Route MZK was actively supported by the following parties in the original proceeding:

- ATXI, MCPO, the Stop the Power Lines Coalition, JDL Broadcasting, Inc., Tarble Limestone Enterprises, Coles County Landowners, Reed Interests, Coles and Moultrie County Land Interests, as well as the Shelby County Landowners Group. (*See*, June 3, 2013 Brief of Stop the Power Lines Coalition, et al., at 1-2; June 3, 2013 Brief of Shelby County Landowners Group at 4).

None of these parties have withdrawn their support on rehearing. Five parties on rehearing have announced their support for the ATXI/MCPO Stipulated Route or a particular version thereof. Ameren Transmission Company of Illinois (“ATXI”); the Commission Staff; Edward Corley and the Edward Corley Trust (“Corley”); the Louise Brock-Jones Limited Partnership (“Brock-Jones”); and the Village of Mt. Zion have announced their support of the ATXI/MCPO Stipulated Route or some version thereof. (*See*, ATXI Br. at 37; Staff Br. at 20-21; Brock-Jones Br. *generally*; *see also*, Corley Br. *generally*; and the ATXI/Village of Mt. Zion Stipulation, (ATXI Stip. 1 on Reh).² No

¹ The PDM Brief continually refers to the Staff’s alternative route from Mt. Zion to Kansas, which consists of a portion of ATXI’s original primary and alternate routes through Moultrie and Coles County. However, Staff is apparently not proposing the Commission adopt this route. (*See*, Staff Br. at 21).

² The Village of Mt. Zion’s support for the ATXI/MCPO Stipulated Route assumes the use of the Staff Option #2 Mt. Zion substation location. (Ameren Stip., Ex. 1 on Reh.).

party has, at least through the filing of Initial Briefs on Rehearing in this proceeding, expressly stated its support for the PDM/CFT hybrid route or any version thereof.

As detailed in MCPO's Initial Brief on Rehearing (per the citations given below) and further substantiated later herein:

- The MCPO routes outperform the Channon routes with regard to: (i) Environmental Impacts (MCPO Br. at 19, 28 and 36); (ii) Proximity to Homes/Other Structures (MCPO Br. at 22-23, 31 and 39); (iii) Proximity to Existing and Planned Development (MCPO Br. at 23, 31 and 39) ; (iv) Community Acceptance (MCPO Br. at 24, 31-32 and 39-40); (v) Visual Impact (MCPO Br. at 24, 32 and 40); and (vi) Presence of Existing Corridors (MCPO Br. at 24-26, 32-33 and 40-41);
- The MCPO routes and Channon routes are generally comparable with regard to: (i) Difficulty and Cost of Operation and Maintenance (MCPO Br. at 19, 28 and 35); (ii) Impacts on Historical Resources (MCPO Br. at 20, 28-29 and 36-37); (iii) Social and Land Use Impacts (MCPO Br. at 21-22, 29-30 and 37-38); and (iv) Number of Affected Landowners/Stakeholders (MCPO Br. at 22, 31 and 38); and
- The Channon routes only outperform the MCPO routes with regard to: (i) Length of Line (MCPO Br. at 18-19, 27 and 35) and (ii) Difficulty and Cost of Construction (MCPO Br. at 19, 27 and 35).

For these reasons, and the others given in MCPO's Initial brief on Rehearing, the Commission should select the MCPO route (Route MZK, Route MZK-1 or Route MZK-2) for the Mt. Zion to Kansas portion of the IRP regardless of which substation site the Commission ultimately selects for Mt. Zion substation.

The alleged differences between the MCPO route and Channon route, identified by PDM are primarily driven by the differences in the length of the line and its additional cost. These differences do not justify the adoption of the Channon routes over the MZK routes, given the fact that the MZK

routes affect substantially fewer residential and non-residential structures, a consideration which should prevail even if the MZK route is longer and more expensive. (Staff Br. at 21).

II. LEGAL STANDARD

MCPO relies on its original discussion for the legal standard.

III. PROJECT CONNECTION THROUGH KINCAID VERSUS PANA

MCPO stated in its Initial Brief that it continues to support ATXI's proposed primary route from Pana to Mt. Zion or ATXI's modified primary route from Pana to Mt. Zion in conjunction with Staff Option #1 or Option #2 for the Mt. Zion substation. (MCPO Br. at 7-8). MCPO continues to do so. However, the Staff has, for the second time in this proceeding, recommended the Commission delay the approval of the Pawnee to Mt. Zion segments of the line in favor of further consideration of the appropriate routing from Pawnee to Mt. Zion via the Pawnee to Kincaid to Mt. Zion route proposed by Staff versus the Pawnee to Pana to Mt. Zion route proposed by ATXI. MCPO certainly appreciates the need for the Commission to carefully consider viable routing alternatives for the IRP. However, it respectfully requests the Commission seriously consider the real need for any further delay in approval of the Pawnee to Mt. Zion line segments. This decision could, in theory, impact the Commission's decision on the Mt. Zion to Kansas segment of the route because the exact location of the Mt. Zion substation might remain undetermined in this proceeding. This would mean that landowners and interested parties, no matter their routing preference, could for a third time, be required to undergo the time and substantial expense associated with relitigating, or opposing various routing proposals, including, but not limited to, the Mt. Zion to Kansas proposal. MCPO respectfully suggests to the Commission that there is sufficient evidence in the record to

resolve the Pawnee to Mt. Zion issues and more than sufficient evidence supporting the stipulated ATXI/MCPO route to make a final determination on the routing segments from Pawnee to Mt. Zion and Mt. Zion to Kansas approving the ATXI/MCPO stipulated route from Mt. Zion to Kansas.

IV. REHEARING ROUTES

B. Location of Mt. Zion Substation

MCPO relies upon its arguments in its Initial Brief on this issue.

D. Mt. Zion to Kansas

1. Length of Line

There is no disagreement that the Stipulated Route/Route MZK, exceeds in length the Channon Hybrid Route (or the Staff Alternative Route), regardless of the substation site ultimately selected for the Mt. Zion substation. Specifically, it would be three miles (4.5%) longer than the Channon and Staff routes from the Sulphur Spring Road substation. (Reinecke, MCPO Ex. 2.2 (RH) Rev. at 1-3, comparing Route MZK to Route CFT). It would be 9.6 miles (15.7%) longer from the Staff Option #1 substation site and 8.3 miles (13.4%) longer from the Staff Option #2 substation site. (*Id.*, comparing Route MZK-1 and Route MZK-2 to Routes CFT-1 and CFT-2).

PDM argues that the Channon and Staff Routes are “unequivocally” favored by this routing factor. PDM suggests that because the Stipulated Route/Route MZK is 9 miles longer, all else equal, it has greater impacts. (*See*, PDM Br. at 6).³ However, all else is not equal. The Stipulated Route/Route MZK impacts significantly fewer residential and non-residential structures regardless

³ MCPO understands that PDM’s referring to the Stipulated Route/Route MZK as “the MCPO Route”. In referencing the PDM Brief, MCPO will use the term “Stipulated Route/Route MZK”.

of the substation location and also has significantly less environmental impact than the shorter Channon (and Staff) routes. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 21:485-493; MCPO Ex. 1.2 (RH) 2C; MCPO Exs. 2.2 (RH) Rev. and 4.2 (RH)). In addition, because the Stipulated Route/Route MZK is able to parallel existing transmission lines for 14.7 miles, it mitigates or minimizes the adverse impacts of a new 345 kV line, such as the adverse visual impact. (MCPO Ex. 2.3 (RH)). Therefore, all things are not equal. Even though the Stipulated Route/Route MZK may be lengthier, in many instances, it reduces impacts associated with a new 345 kV line versus the Channon (and Staff) Routes.

PDM also argues that the Stipulated Route/Route MZK “unnecessarily detours miles off course to the north.” (PDM Br. at 7). First, it is worth noting that PDM made similar arguments in the original proceeding. (*Ameren Transmission Company of Illinois*, ICC Dkt. 12-0598, Final Order, August 20, 2013 (the “August 20 Order”) at 94). The Commission was not persuaded by the argument in the original case, and PDM presents no evidence on rehearing that would justify the acceptance of this argument on rehearing. In addition, PDM overlooks or ignores the fact that by going north, the Stipulated Route/Route MZK is able to impact fewer residences, impact fewer non-residential structures and parallel existing transmission lines for 14.7 miles. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 21:485-497; MCPO Ex. 2.2 (RH) Rev. at 4 of 4; MCPO Ex. 2.3 (RH)). MCPO witnesses have identified the substantial benefits of paralleling existing transmission lines in the form of mitigation of visual impacts, noise and environmental fragmentation caused by new transmission lines. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 20-22:463-519 and Reinecke, MCPO Ex. 4.0 (RH) at 2-3:49-70).

Indeed, the Commission has suggested in this case that while an overhead 345 kV transmission line cannot be hidden, it is “preferable” to parallel existing transmission lines where the choice is to place the line in an area that currently lacks any similar linear features. (August 20 Order at 120). The Commission specifically stated:

... a second line ... will have less visual impact than a transmission line in a rural area previously untouched by such structures.
(*Id.*).

Thus, in a route designed to parallel existing transmission lines, such as the Stipulated Route/Route MZK, a detour to the north will help minimize and mitigate the impacts of the 345 kV transmission line and does not mean that the line “unnecessarily” detours.

Furthermore, as previously noted, the Stipulated Route/Route MZK was designed in a way to avoid residences and other non-residential structures and does so with great success. Designing a route to accomplish this result does not constitute an “unnecessary” detour.

ATXI made it clear that minimization of the impact on existing residences was an extremely important factor in selecting the Primary Route segments for the IRP. (Murphy, ATXI Ex. 4.0 at 10:216-218). Indeed, in some instances, the reduction in the number of homes impacted “superseded the lowest cumulative occurrence” of other sensitivities “where there was not a significant variation in quantities of occurrence of other sensitivities.” (*Id.* at 10-11:195-198). Ms. Murphy also noted that in some cases, the increase in length of the ATXI Primary route over the ATXI Alternate route allowed for a trade-off of other potential impacts. (*Id.* at 10:198-200). The same is basically true for the Stipulated Route/Route MZK, as compared to the Channon or Staff routes.

Finally, PDM argues that another drawback of the Stipulated Route/Route MZK “northern detour” is that it makes two “entirely unnecessary” crossings over U.S. Route 36. (PDM Br. at 9). Yet, to the best of MCPO’s knowledge, there is no evidence in the record in this proceeding which suggests that crossing U.S. Route 36 (or any other highway for that matter), presents any insurmountable problems in the construction or location of a 345 kV transmission line. No doubt, a transmission line across central Illinois will cross numerous roads and highways without any particular problems. PDM’s arguments to the contrary - the fact that the Stipulated Route/Route MZK is longer than the Channon and Staff routes, regardless of which substation site is chosen, does not necessarily mean this factor compels adoption of the Channon and Staff routes. This is because in many instances, the Stipulated Route/Route MZK has substantially fewer impacts on the general environment in the form of impacts on residential and non-residential structures, and minimizes or mitigates visual, noise and other impacts due to paralleling.

2. Difficulty and Cost of Construction

PDM argued that all components of this routing factor favor the Channon and Staff Routes over the MCPO Route. (PDM Br. at 11). It is undisputed, that the estimated construction cost of the Stipulated Route/Route MZK exceeds the Channon hybrid route by \$5 million (3.9%) to \$17.8 million (15%) depending on the substation site selected. (However, this only amounts to a construction cost difference in the range of \$450,000 to \$1.6 million for Illinois ratepayers due to MISO multi-value project cost sharing.) (See, MCPO Br. at 19, 27 and 35). It is also worth observing that under traditional ratemaking concepts, the actual annual cost to Illinois ratepayers is

likely to be less when one considers that the cost is a capital cost that will be recoverable over the time of the depreciable life of the transmission asset.

PDM makes certain assertions in support of its argument on this routing factor that are inconsistent with the evidentiary record. For example, PDM asserts that because the Stipulated Route/Route MZK is 9 miles longer, it will require the acquisition of an additional 173 acres of easement for the transmission line, compared to the Channon Hybrid Route. (PDM Br. at 11). PDM argues that this represents “significant additional costs to ratepayers.” (*Id.*). However, PDM overlooks or ignores evidence in the record that the baseline cost estimates prepared by ATXI for route segments already include right-of-way and environmental costs. (Murbarger, ATXI Ex. 7.0 at 5:104-105). ATXI has provided in its Brief the “estimated baseline cost” for Route MZK-2 compared to the Channon Hybrid Route (ATXI Br. at 38). The cost of acquiring an additional 173 acres of easement does not represent an incremental increase in cost for ratepayers over and above the baseline estimate provided by ATXI.

PDM also suggests that ATXI witness Hackman identified construction difficulties associated with paralleling existing transmission lines. (PDM Br. at 11, citing ATXI Ex. 12.0 at 6:110-121). However, PDM has overlooked the testimony of Mr. Hackman that the Stipulated Route/Route MZK is constructible. (Hackman, May 17 Tr. 1021). Furthermore, no party has specifically testified the Stipulated Route/Route MZK is going to be more difficult to construct than the Channon Route. In addition, there has been no quantification of the additional cost, if any, to construct a new transmission line in parallel with an existing line on the Stipulated Route/Route MZK.

3. Difficulty and Cost of Operation and Maintenance

PDM claims that the Channon and Staff Routes clearly out-perform the Stipulated Route/Route MZK on all components for this factor. (PDM Br. at 16). PDM argues that operational concerns over paralleling existing lines, lack of spacing from such lines, the proportionate increase in the costs of a longer line, multiple crisscrossing of existing lines, and the additional structures and spans required to be maintained, less accessibility and greater impedance, etc., favor the Channon and Staff Routes on this factor. (*Id.*). MCPO disagrees. First, neither ATXI nor the Staff have concluded that any of the routes have any greater increase in operation costs than the others. (*See*, ATXI Br. at 27; Staff Br. at 21). Second, PDM cites the testimony of Staff witness Rockrohr that the right-of-way for the Stipulated Route/Route MZK abuts the existing transmission line right-of-way for the transmission line that it parallels. (Rockrohr, Dec. 18 Tr. 341-342). PDM then concludes that sufficient space has not been provided to avoid or mitigate problems caused by paralleling existing transmission lines. (PDM Br. at 12-13). However, neither ATXI nor the Staff have come to any such conclusion on the record in this proceeding. Indeed, PDM did not present any witness which suggested this was the case.

PDM has included in its brief a picture from MCPO Cross Ex.1 which it says demonstrates there is insufficient space between the proposed Stipulated Route/Route MZK and the existing transmission lines. (PDM Br. at 12). Again, it is important to note that no witness for ATXI, the Staff, MCPO or PDM has testified that this is the case. Second, the picture does not have a scale that would allow a determination of the distance between the existing transmission lines and the proposed line, so one cannot determine from this picture whether the existing transmission line is “too close”

to the proposed line. Indeed, there is no evidence in the record specifically describing or defining the term “sufficient space” except Mr. Rockrohr’s general statement that a line separated by a mile or more would be an example of how to “avoid or mitigate problems associated with parallel lines.” (Rockrohr, Dec. 19 Tr. 342). Mr. Rockrohr did not testify that transmission lines paralleling other transmission lines at any distance less than a mile would not avoid or mitigate problems associated with parallel lines. Furthermore, the question put to Mr. Rockrohr does not define what is meant by “problems associated with parallel lines.” Specifically, it does not make clear whether it refers to “operation and maintenance” problems that are the subject of this particular routing factor.

Furthermore, MCPO notes that the picture included in the PDM Brief shows the presence of two existing transmission lines that are in close proximity. Obviously they were apparently constructed without difficulty and are maintained and operated on an on-going basis by the utility. The existence of these two parallel lines in close proximity illustrate the weakness of PDM’s argument on this issue.

Next, in support of its arguments on the difficulty and cost of operation and maintenance routing factors, PDM claims that the Staff testified that a longer route is more costly to operate and maintain. (PDM Br. at 13). However, Staff does not take such a position in its Brief. (*See*, Staff Br. at 21). Furthermore, once the transmission line structures are in the ground and wires are strung, there is minimal maintenance that must be conducted. ATXI witness Hackman stated in his rebuttal testimony in the original proceeding:

Maintenance and repair of transmission lines after construction is non-invasive. Generally, maintenance consists of an individual line worker walking the transmission line easement twice a year for

inspection. Repair also is limited to the easement owned by the utility and, while it does occur, is not a regular event. As such, there should be no concern that, post-construction, the maintenance and repair of the Project facilities will be a nuisance. (Hackman, ATXI Ex. 12.0 Rev. at 32:665-669).

Furthermore, during cross-examination in the original proceeding, he testified:

We don't routinely have to repair these things. It's not like we're in there every year fixing broken things. A lot of our wires haven't been touched in 80 years, so if the chance of something happening is one-in-90, but it costs an extra \$5,000, today's cost might be \$60 bucks. (Hackman, May 17 Tr. 1016-1017).

Mr. Hackman then goes on to describe the semi-annual inspections of transmission line routes stating:

The reason for semi-annual inspections is for vegetation management. (Hackman, May 17 Tr. 1017).

In this case, the Commission has recognized that the predominant land use along the competing Mt. Zion to Kansas routes is agricultural in nature. (August 20 Order at 99). These facts suggest that in conducting their agricultural operations, farmers will, by extension, perform vegetative maintenance for much of the IRP.

All of these circumstances suggest that even if there is a difference in the cost of operation and maintenance of the transmission line that would be built on the Stipulated Route/Route MZK and the Channon or Staff Routes, that difference would not be of great significance. The record does not show that there is any difference in cost between the transmission lines that will be built on these routes and suggests that even if there were such a calculation made, the total maintenance and

operation costs and any difference in same would not be sufficient to make this routing factor a determinative factor in adopting a particular route.

Next, in support of its arguments on the “difficulty and cost of operation and maintenance” routing factor, PDM reasons that ATXI has submitted testimony that parallel lines increase operational concerns. (PDM Br. at 14). PDM suggests that the concerns identified by ATXI witness Ms. Borkowski were so significant that ATXI concluded they were a “determinative factor” in the ATXI recommendation on the Meredosia to Pawnee segment. (PDM Br. at 14, citing Borkowski, ATXI Ex. 7.0 at 8:157).

However, PDM ignores or overlooks the testimony on rehearing of ATXI witness Mr. Hackman who stated:

However, the capability of the existing 138kV circuits in any given area is quite different. And while the North American Electric Reliability Corporation (NERC) Standard planning study criteria that Mr. Rockrohr and Mr. Kramer discuss treat parallel lines (not on common structures) the same, in operational practice, common mode failures occur, and when they occur in areas where the system is less robust, more customers are outaged or at risk. For this reason, I continue to support the non-parallel route from Meredosia to Pawnee. But this is not inconsistent with ATXI’s position on parallel routes for other portions of the Project. Kansas, for example, has other 345 kV sources and good 138 kV circuits connecting it to other relatively strong sources. Thus, the same reliability concern is not present for the portion of the Mt. Zion to Kansas stipulated route (15 of 70 miles) that parallels going into the Kansas substation. (Hackman, ATXI Ex. 9.0 (RH) at 8:156-166).

Thus, the operational concerns identified by PDM in reference to Mr. Borkowski’s testimony do not appear to apply to the paralleling on the Stipulated Route/Route MZK. Mr. Hackman’s testimony and position is not disputed by PDM in its Brief or by any witness for PDM. PDM points

to the fact that the Stipulated Route/Route MZK crosses existing transmission lines. (PDM Br. at 15). However, ATXI has not identified any concern about this issue with regard to the Mt. Zion to Kansas routing proposal. Furthermore, as noted previously, ATXI witness Mr. Hackman has stated that Route MZK is constructible and reliability is not a concern for the portion of the Mt. Zion to Kansas Stipulated Route that parallels an existing line going into the Kansas substation. (May 17 Tr. 1021:19-21; and Hackman, ATXI Ex. 9.0 (RH) at 8:156-166).

PDM again argues that the presence of 50 more transmission structures and spans means there will be more structures and spans to maintain. (PDM Br. at 15). However, as indicated above, maintenance requirements in general for a transmission line are minimal. Therefore, the presence of additional structures and spans would not seem to significantly impact the total cost of maintenance for the Stipulated Route/Route MZK in comparison to the Channon and Staff Routes.

Thus, maintenance cost should not be a determining factor in this proceeding. Furthermore, no witness in this case has suggested there would be a significant difference in the cost to maintain the line on the Stipulated Route/Route MZK versus the Channon Route.

Next, PDM argues that the Stipulated Route/Route MZK is less accessible to roads than the Channon or Staff Routes. PDM overlooks that in addition to paralleling 6 miles of roads, the Stipulated Route/Route parallels 14.7 miles of existing transmission lines to which ATXI obviously already has access. (MCPO Ex. 2.2 at 16-20; MCPO Ex. 2.3 (RH)). Furthermore, as noted above, once the line is constructed, maintenance activities, and, therefore, the need for access, will be minimal.

PDM also argues that the increased length of the Stipulated Route/Route MZK will result in more impedance and exposure. (PDM Br. at 16). MCPO has already addressed the length of line routing factor and the significance of the fact that the Stipulate Route/Route MZK is from 3 to 9.6 miles longer than the Channon Route, depending on the substation location selected in Section IV.D.1. above. MCPO will not repeat all of those arguments here. However, MCPO would note that if the impedance and additional exposure associated with longer lines versus shorter lines were a matter of significant concern it would suggest that no transmission line should ever deviate from a straight line from its starting point and end point in general and each particular segment of the IRP should have been built in a straight line from substation to substation. The fact that there might be more impedance and more exposure for longer lines should not be considered a major determining factor in evaluating and selecting an appropriate Mt. Zion to Kansas route in light of the other benefits of the Stipulated Route/Route MZK. Furthermore, the testimony relied upon by PDM was generic in that it did not quantify or calculate the alleged impacts associated with this particular concern for the Mt. Zion to Kansas route segment. (*See*, Lazorchak, MSSCLPG Ex. 12.0 (RH) at 2:39-41).

In summary, PDM has not demonstrated there is any particular difficulty in the operation and maintenance of the Stipulated Route/Route MZK compared to the Channon Routes or the Staff Routes. It has not quantified such a difference, nor has it demonstrated that any difference in the cost of operation and maintenance is significant. Therefore, PDM has failed to demonstrate that the Channon and Staff Routes are significantly better than the Stipulated Route/Route MZK with regard to this fact.

4. Environmental Impacts

PDM argues that all of the evidence and testimony submitted in this case, most notably the fact that the Stipulated Route/Route MZK is 9 miles longer than the Channon or Staff Routes, clearly demonstrates that the Channon and Staff Routes outperform the Stipulated Route/Route MZK in regard to avoidance of environmental impacts. PDM continues to make the over-simplistic argument that runs throughout its Brief that the Channon and Staff Routes out-perform the Stipulated Route/Route MZK in all respects simply because the Channon and Staff Routes are shorter. PDM continues to ignore the detailed routing analysis in the record that clearly demonstrates this is simply not the case.

Specifically, PDM asserts that because the MZK Route from Staff substation Option #1 (MZK-1) is 9 miles longer than the equivalent Channon Route (CFT-1), there will be over 9 miles of additional adverse environmental impact. However, environment impacts for the proposed routes between Mt. Zion and Kansas were not addressed in terms of length of the route in the original proceeding or on rehearing. (*See*, Murphy, ATXI Ex. 4.5 at 1-3; Reinecke, MCPO Ex. 2.3 at 1-3; Reinecke, MCPO Ex. 2.2 (RH) Rev. at 1-3; MCPO Ex. 4.2 RH). Both MCPO and ATXI witnesses conducted a routing analysis, contrary to the witnesses presented by PDM. MCPO and ATXI actually attempted to identify and measure the specific environmental impacts associated with each route, rather than taking the simplistic approach, PDM uses throughout its brief to suggest that simply because one line is longer than the other it will have greater impacts. Indeed, there is no evidence in the record to suggest that the entire 9 miles of extra length for the Stipulated Route/Route MZK, will result in 9 miles worth of environmental impacts. In fact, as will be

explained below, the record evidence demonstrates to the contrary.

PDM asserts that testimony on specific environmental impacts associated with the Stipulated Route/Route MZK have been submitted and that no such testimony has been submitted regarding the Channon and Staff Routes. This is untrue. PDM ignores the fact that the Stipulate Route/Route MZK was specifically routed to avoid and minimize impacts to wooded areas along the entire route, which was reflected in its having 33 fewer acres of wooded areas on the route from Sulphur Spring Road to Kansas (Route MZK) than the Channon Route from Sulphur Spring Road to Kansas, (Route CFT) and 32 fewer acres of wooded areas on Route MZK from the Staff Option #1 and Option #2 substations (MZK-1 and MZK-2) than the Channon Routes from the Staff's Option #1 and Option #2 substation locations (CFT-1 and CFT-2) within the 500-foot corridor. (Reinecke, MCPO Ex. 2.2 (RH) Rev. at 3). Additionally, the record shows the Channon Routes will impact 1.2 acres of rookeries and 2.2 more acres of Illinois natural areas within the 500-foot analysis corridor. (Reinecke, MCPO Ex. 2.2 (RH) Rev. at 3). Furthermore, through the better use of paralleling existing transmission lines, the MZK Routes will result in less habitat fragmentation. (Reinecke, MCPO Ex. 2.0 (RH) at 2-5:50-113; MCPO Ex. 4.1 (RH) at 1). Thus, the record shows that there has been environmental impact evidence submitted on the Channon Route. In addition, that evidence shows the Stipulated Route/Route MZK does better on environmental impacts.

Finally, the record shows that greater quantities of the three MZK Routes are located within routinely disturbed areas, and, therefore, have less of an impact on minimally disturbed natural areas compared to the Channon Routes. (Reinecke, MCPO Ex. 4.0 (RH) at 5-6:127-140; MCPO Ex. 4.2 (RH)).

PDM does not dispute this evidence and has not presented any evidence which contradicts same. Therefore, the record clearly demonstrates that even though the three versions of the Stipulated Route/Route MZK presented for the Commission's consideration are slightly longer than the equivalent Channon Routes, the MZK Routes actually have less environmental impact than the Channon Routes when one performs a detailed analysis necessary to make that determination rather than taking the overly simplistic approach adopted by PDM, that greater length means greater environmental impacts. The record evidence shows that this is simply not true in this instance.

Furthermore PDM fails to recognize that all versions of the Stipulated Route/Route MZK outperform the equivalent Channon Routes and the Staff Routes on other important factors such as residences and woodlands. (*See*, for example, Murphy, ATXI Ex. 4.0 at 10:214-218).

Basically, PDM over-simplifies and under-analyzes the environmental impact associated with the recommended routes. When the detailed analysis necessary to make that determination is considered, as presented in this proceeding by MCPO and ATXI, there is no doubt that the Stipulated Route/Route MZK from the Mt. Zion substation location performs better than the Channon Routes (or the Staff Routes) in this instance.

Finally, MCPO would like to note that in its discussion of environmental impacts, PDM again raised the issue of the Native American Archeological Site it claims is crossed by the Stipulated Route/Route MZK in the original proceeding. It was explained that the site had been extensively cultivated and continues to be cultivated. (Reinecke, MCPO Ex.4.0 at 146-119). It was further explained that the presence of the site would not keep the line itself from being constructed. (*See*, Reinecke, MCPO Ex. 2.0 at 20:457-463). Therefore, the Commission concluded in the original

case that this site did not impair the construction of the proposed transmission line and would not be interfered with. (August 20 Order at 98-99).

5. Impacts on Historical Resources

As PDM notes, the Commission found that the Stipulated Route/Route MZK was marginally preferable in this area. (August 20 Order at 99; PDM Br. at 18). However, PDM argues that the Stipulated Route/Route MZK runs through historic Amish areas and over the northern gateway to the Amish community and through a Native American archeological site and, therefore, the Channon and Staff routes outperform the Stipulated Route/Route MZK in this regard. (PDM Br. at 18-20). The arguments in this portion of the PDM brief are very similar to arguments made by PDM in the original proceeding with regard to Amish community impact and impacts on archeological sites. (See, PDM June 3, 2014 Br., Original Proceeding at 10). Those arguments were not persuasive with the Commission in the original proceeding and should not be persuasive on rehearing.

The Channon Routes (and the Staff Route) do not “outperform” the Stipulated Route/Route MZK in regard to avoidance of impact on historical resources, contrary to PDM’s position.

As noted below, PDM continues its pattern of misunderstanding, or mischaracterizing or misstating the evidence in this proceeding. For example, PDM boldly proclaims that “Specific testimony in the record from a representative of the Amish community evidences the adverse impact of the MCPO route.” (PDM Br. at 19). The cited testimony of Mr. Bob Doan, however, does not support the assertion that he is testifying on behalf of or as a representative of the Amish community. Mr. Doan’s testimony was “Submitted on behalf of the Coalition of Property Owners and Interested Parties in Piatt, Douglas and Moultrie Counties, and the Channon Family Trust.” (Doan, PDM Ex.

4.0 at 1) He works for the Arthur Area Economic Development Corporation and part of his responsibilities involve managing the Arthur Amish Country Welcome Center located in Arthur. (*Id.* at 2). The subject of his testimony is “the negative affect on tourism that the proposed 345 kV transmission line will have if it is located in proximity to the Amish community.” (*Id.* at 2). Nowhere does Mr. Doan state that he is testifying on behalf of or as a “representative” of the Amish community, or that he has been authorized by the Amish community to so testify. Mr. Doan’s expressed interests are economic, the impact on tourism in Arthur based on the location of the subject transmission line. While certainly a legitimate interest, it should not be confused with or clothed with the interests of the Amish community itself. There is no evidence whatsoever that the economic development and tourism interests of the greater Arthur community are even consistent with the values of the Amish community.

The most telling evidence that Mr. Doan is not testifying on behalf of or as a representative of the “Amish community”, is that, to avoid economic impacts on tourism to Arthur, he completely ignores the potential adverse impacts on members of the Amish community in Moultrie County which could occur if the Channon CFT route is selected.

It should be noted that the record shows that the original ATXI Alternate and Primary routes through Moultrie County (which are incorporated in part into the Channon Route) come within one-quarter mile of existing Amish cultural facilities and farmsteads in Moultrie County. (Sanders, MCPO Ex. 6.0 at 2:16-23). Obviously, these Amish sites are more immediately affected than the Arthur community which is literally miles from the Stipulated Route/Route MZK at its closest point.

(See, MCPO Ex. 2.1 (RH) at 1-6, showing the Stipulated Route/Route MZK is approximately 4 miles).

Again, continuing its pattern of misunderstanding, mischaracterizing or misstating the evidence in this proceeding, PDM states in its initial brief “The skyline and landscape views of the Amish community are free of any high-voltage transmission lines of this magnitude and size. . .” (PDM Br. at 19). That, however, is not the testimony of PDM’s witness Mr. Doan, who actually testified that the Arthur area is free of all power lines, not just power lines “of this magnitude and size.” Mr. Doan stated that “(our area) the Arthur area, is free of interstates, power lines, skyscrapers, and industrial plants.” (Doan, PDM Ex. 4.0 at 2:18-19). However, both Mr. Doan and PDM ignore the fact that there is already an existing 138 kV high voltage transmission line cutting through the triangle of the Amish communities, between Arthur and Arcola and which already crosses one of the entrances to the Arthur area. (See, Murphy, ATXI Ex. 4.2, Part 67 of 100 at 2 of 3 - showing the 138 kV line crossing Illinois Route 133 about three miles east of Arthur).

Furthermore, PDM has incorrectly measured the closest distance between Arthur and the MCPO Routes to be three miles, (See, PDM Br. at 18, citing PDM Ex. 2 at 2). In fact, when measuring from MCPO Ex. 2.1 (RH) pages 1-3, it is approximately four miles at its closest point. (25% further than PDM suggests.)

In addition, the “northern gateway” to Arthur, about which Mr. Doan and PDM are concerned, is actually at Route 36 at Tuscola. The Stipulated Route/Route MZK as it crosses that “northern gateway” is approximately eight or nine miles along roads or eight miles as the crow flies, from Arthur. (Reinecke, MCPO Ex. 2.1 (RH) at 1-3). If one is concerned about the impact of the

transmission line that would be constructed across the northern gateway, even though it is eight or nine miles from Arthur, then one would have to also be concerned about the impact of the Channon Route which is about eight or nine miles south of Arthur on its southern entrance. (*See*, MCPO Ex. 2.1 (RH) at 4-6, showing the location of the centerline of the Channon Route as it crosses the “southern approach” to Arthur, approximately nine miles south of Arthur). PDM also argues, quoting Mr. Doan, that the Stipulated Route/Route MZK cuts directly through the “triangle of Amish communities - Arthur, Tuscola, and Arcola. (PDM Br. at 19). This is simply untrue. A review of MCPO Exhibit 2.1 (RH) discloses that the Stipulated Route/Route MZK only slightly impacts the northern portion of the “triangle” on the south side of Tuscola. (Reinecke, MCPO Ex. 2.1 (RH) at 1-3).

Next PDM argues that currently visitors to Arthur “do not observe or experience any large or obtrusive constructed objects on their approach to the Arthur area.” (PDM Br. at 19). Again, this is not true. There is an existing 138 kV transmission line located along Illinois Route 133 halfway between Arcola and Arthur. (Murphy, ATXI Ex. 4.2, Part 67 of 100 at 2). Furthermore, if the Channon Route is adopted visitors to Arthur from the south will observe or experience the 345 kV line anyway.

Finally PDM argues that the Stipulated Route/Route MZK will cut directly through a registered Native American archeological site which has yielded many important artifacts dating back thousands of years, while no such site would be crossed by the Channon Route. (PDM Br. at 20). PDM made similar arguments in the original proceeding. (*See*, PDM Br., original proceeding, at 10). The Commission was not persuaded by PDM’s arguments in the original proceeding and

PDM has added nothing to the record in this case which would justify acceptance of the arguments on rehearing.

The Native American site referenced by PDM has been significantly altered through the apparent collection of artifacts by the owner of the site and its continued farming of the site by the owner, which has resulted in the diminishment of the site. (Reinecke, MCPO Ex. 4.0 at 6:114-119). There is also evidence in the record that the site in question would not present any problems to the construction of the transmission line; ATXI will be coordinating with the Illinois Historic Preservation Agency to cross this site along with the entire project as there is already a total of 54 archeological sites within the easement of the IRP as originally proposed by ATXI. (*Id.* at 6:119-124). Furthermore, the record shows that through proper design of the transmission line in this area, it is possible that this site could be avoided or spanned in its entirety since it is only 415 feet wide at the centerline of the Stipulated Route/Route MZK. (Reinecke, MCPO Ex. 2.0 at 20:455-456). Therefore, there is no evidence in the record that suggests that this site will be adversely affected by the construction of the transmission line and, therefore, the fact that the transmission line may “span” the site or some portion thereof, should not be considered a determinative factor in evaluating the proposed route on the basis of impacts on historical resources.

6. Social and Land Use Impacts

PDM argues that the Channon and Staff Routes clearly outperform the Stipulated Route/Route MZK on social and land use impacts based on all the testimony and evidence in the record. Specifically, they suggest that the Stipulated Route’s/Route MZK’s “admittedly” greater impact on Prime Farmland, excessive splitting of farm tracts, placement of multiple dead-end turns

in the middle of single tracts and risks imposed in the use of the Tuscola Airport, illustrate the deficiencies of the Stipulated Route/Route MZK with regard to the social and land use impact routing factor. (PDM Br. at 21-25).

MCPO disagrees. First, PDM's assertion that the Stipulated Route/Route MZK admittedly affects more Prime Farmland than the Channon Route is untrue. (PDM Br. at 21-22). The Stipulated Route/Route MZK from the Sulphur Spring Road substation site actually affects fewer Prime Farmland acres than the Channon Route from the Sulphur Spring Road site. (Reinecke, MCPO Ex. 2.0 (RH) at 5:Table 1). Only if the Commission were to select Staff Option #1 or Staff Option #2 as the substation location for the Mt. Zion substation, would the associated Channon Routes (CFT-1 or CFT-2) affect less Prime Farmland. (*Id.*). Indeed, PDM's assertion that Mr. Reinecke admitted that "the MCPO Route impacts more Prime Farmland than the Channon and Staff Routes" is incorrect and constitutes another misrepresentation of the record evidence in this proceeding. Mr. Reinecke actually testified:

MCPO's Route, has . . . more Prime Farmland impacts coming, originating from the staff, the Substations Options 1 and 2 than the . . . hybrid route.
(Reinecke, Dec. 18 Tr. 229-230).

He affirmed this statement again in his cross-examination. (*See, Id.* at 230). Even then, it is important to note that only the area at the base of the transmission towers themselves will impact Prime Farmland. (Trelz, ATXI Ex. 5.0 at 10:198-199).

Next, PDM suggests that MCPO's testimony in the original proceeding that the MCPO routing affects fewer Prime Farmland acres than ATXI's routing is simply false. However, this is

not true. MCPO used the Federal definition for Prime Farmland, which is the same definition that was used for the entire IRP by ATXI. (ATXI Ex. 4.3, App. A at 88 of 94; Reinecke, MCPO Ex. 2.0 (RH) at 10:240-244). Under that definition, MCPO witness Reinecke demonstrated that the Stipulated Route/Route MZK as originally proposed in this case, from the Sulphur Spring Road substation south to Kansas impacted fewer Prime Farmland acres than ATXI's primary and alternate routes from Mt. Zion to Kansas. (MCPO Ex. 2.2 (RH) Rev. at 2).

The Federal definition of Prime Farmland is an accurate classification of Prime Farmland based on soils "that [have] the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops." (ATXI Ex. 4.3, App. A Page 88 of 94). The PDM definition includes an assumption that properties are optimally managed, and included within the management are long-standing drainage practices that have allowed the farmland, identified as Prime Farmland, to achieve its optimal potential. (See, Burns, PDM Ex. 6.0 at 10:193-195). Therefore, PDM's definition of Prime Farmland makes assumptions about farming practices that may or may not be implemented on these "potential Prime Farmland soils." (Burns, PDM Ex. 6.0 at 10:193-195).

Furthermore, there does not appear there would be a significant difference in the acres of Prime Farmland affected by any version of the Stipulated Route/Route MZK, MZK-1 and MZK -2, (in comparison to any version of the Channon Routes (CFT, CFT-1 and CFT-2). (See, Reinecke, MCPO Ex. 2.0 (RH) at 5:Tables 1 and 2, showing that Route MZK has 121 fewer acres of Prime Farmland compared to Route CFT, Route MZK-1 has 97 more acres of Prime Farmland than Route CFT-1 and Route MZK-2 has 91 more acres of Prime Farmland than Route CFT-2, within the 500-

foot corridor). Even if the PDM definition of Prime Farmland is used, there is not a huge difference in the amount of Prime Farmland affected by MZK, in comparison to CFT. (Reinecke, MCPO Ex. 2.0 (RH) at 12-13:287-299). Certainly, the differences are not large enough to justify making impacts on Prime Farmland a factor which offsets significant differences in the routes with regard to the impact on residential and non-residential structures.

Next, PDM argues that the Stipulated Route/Route MZK splits (bisects) farm properties. (PDM Br. at 22). The arguments suggest that properties in question will be divided into parts. This is not the case. The record shows that farmland beneath the transmission line will continue to be farmed. As ATXI witness Ms. Trelz testified:

No agricultural land will be permanently removed from cultivation, other than the footprint of the foundations of the structures. Of the proposed Primary Route easement area of approximately 4,489 agricultural acres, 1.55 acres of actual farmland will be taken out of production. This total represents the agricultural acreage within the required 150 foot wide easements. The construction of single shaft steel poles with no down guys and anchors will help reduce the amount of land removed from cultivation. The majority of the easement area will only have overhanging wires. (Trelz, ATXI Ex. 5.0 at 10:198-204).

There are also ample examples in the record of farming operations being conducted on farm tracts with transmission lines located along field lines and through the middle of fields, including tracts with multiple transmission lines and structures. (See, Reinecke, MCPO Ex. 2.0 (RH) at 13-14:312-324). Therefore, while the transmission line built on any of the three versions of the Stipulated Route/Route MZK may cross farm property, it does not necessarily divide or bisect that property so as to prevent or significantly impair farming operations.

PDM argues that the Illinois Supreme Court has recognized the adverse impact of splitting farms and has previously concluded that the Commission erred in granting a Certificate of Public Convenience and Necessity for a transmission line that did not follow fence lines and split affected farms over a distance of seven miles. (PDM Br. at 23, citing *Ness v. ICC*, 67 Ill. 2d 250 (1997)). The Commission should be aware that the *Ness* case has been distinguished in *Ameropan Oil Corp. v. Illinois Commerce Comm'n*, 298 Ill. App. 3d 341 (1998). The Appellate Court distinguished *Ness* from Commission cases involving application of the criteria now specified under the Public Utilities Act for the issuance of a Certificate of Public Convenience and Necessity to public utilities. Specifically, the Court stated:

In *Ness*, the ICC granted a certificate of public convenience and necessity to ComEd to construct a transmission line across the plaintiffs' farmland. The Circuit Court reversed the ICC's decision, and the supreme court affirmed the circuit court's decision. The issue in *Ness* was the effect of ComEd's two proposed routes through agricultural properties. In order to determine the route selection, the following criteria were used:

'(A) new right-of-way will be installed on a route that was selected to minimize the environmental impact of the line. To the greatest extent possible, the route will follow existing land use lines, will avoid conflict with existing structures, and will require a minimum of tree clearing.'

After reviewing the record, the Supreme Court found that the ICC's decision was against the manifest weight of the evidence because manifestly better alternatives were available. *Ness* is inapplicable to the present case, in which the criteria are not limited to environmental impact concerns. The Public Utilities Act has been amended since *Ness* to include the criteria we have previously discussed." (*Ameropan*, 298 Ill. App. 3d at 348).

The Staff's criteria referred to by the *Ameropan Oil* case were the criteria specified in Section 8-406(b) of the Public Utilities Act. (220 ILCS 5/8-406(b)). Those criteria are the same criteria now specified in Section 8-406.1(f) of the Public Utilities Act. (220 ILCS 5/8-406.1(f)). Therefore, the *Ness* case is inapplicable to the case now before this Commission, which has been filed under the provisions of Section 8-406.1.

Next, PDM argues that the Channon Routes better reflect public input by not splitting farms. (*See*, PDM Br. at 23; Burns, PDM Ex. 6.0 at 14:291-293). The public input factors that PDM refers to include the Phase I and Phase II public meetings surveys. These surveys demonstrated the preference for routing around a sensitivity such as a residence and the preference for routing along an opportunity such as a road, since more residences are located along roads. (Murphy, ATXI Ex. 4.0 at 19-20:402-409). In the original proceedings, ATXI's route selection process placed more emphasis on a route with less residential structures and woodland impacts over the lowest cumulative occurrence of other sensitivities where there was not a significant variation in the quantities of occurrences of those sensitivities. (Murphy, ATXI Ex. 4.0 at 9-10:194-202). ATXI selected routes based on the lower number of residential structures and recognizing the public's desire to avoid agricultural use areas as defined in the Phase II public meetings was met in part by the fact that the single shaft steel pole construction proposed for the line would minimize impacts on farmland. (Murphy, ATXI Ex. 4.0 at 10:214-220). In this case, the Stipulated Route/Route MZK was developed to avoid "sensitivities" identified in the public process where possible. (Reinecke, MCPO Ex. 2.0 at 6:125-128). Thus, MCPO followed the same routing practice followed by ATXI

throughout the IRP and in the original proceeding in this case. The Commission, thus, has in essence, already accepted the reasonableness of this approach in this case.

Finally, PDM claims, erroneously, that “the evidence shows no airport impact whatsoever on the Channon and Staff routes, so airport concerns cannot be said to favor the MCPO route.” (PDM Br. at 21) PDM then claims that construction of a transmission line on the Stipulated Route/Route MZK will adversely impact use of the Tuscola Airport for pilot training. (*Id.* at 24-25). PDM then goes on to rely on Dr. Emanuel’s testimony that while the proximity of the transmission line will not pose clearance problems for aircraft using the airport, in the event of an engine failure, an aircraft could strike the transmission line. (*Id.*, citing Emanuel, PDM Ex. 5.0 at 2:18-23). These claims are wrong for several reasons.

First, the Commission found, and PDM admits, that the MCPO route will not pose clearance problems for aircraft using the airport. (Final Order at 99; PDM at 21, 24-25). If such a line is not an impediment to the airport, logically there is no impact, making the MCPO route *at least* on par with, or having the same airport impact as, the Channon and Staff routes. That argument also fails since an aircraft could have an engine out at any time, not just near an airport.

Second, the record demonstrates that the construction of the line will meet airport construction standards established by the Illinois Department of Transportation, assuming those standards are applicable to this airport (Reineke, MCPO Ex. 2.0 at 23-24:510-533).

Third, following Dr. Emanuel’s own logic about engine-out emergencies, this would mean that ANY obstruction, including trees, buildings, or other above-ground level objects, ANYWHERE,